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**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1D 2005 64366

EZEQUIEL A. MARZOCCHETTI, PT
3228 Lennox Court
Palmdale, California 93551

A C C U S A T I O N

Physical Therapist License No. PT 26241,
Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California (Board).
2. On or about June 6, 2001, the Board issued Physical Therapist License Number PT 26241 to Ezequiel A. Marzocchetti (Respondent). This license was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2009, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

1 4. Section 2609 of the Code states:

2 “The board shall issue, suspend, and revoke licenses and approvals to
3 practice physical therapy as provided in this chapter.”

4 5. Section 2630 of the Code states:

5 “It is unlawful for any person or persons to practice, or offer to practice,
6 physical therapy in this state for compensation received or expected, or to hold himself or
7 herself out as a physical therapist, unless at the time of so doing the person holds a valid,
8 unexpired, and unrevoked license issued under this chapter.

9 Nothing in this section shall restrict the activities authorized by their
10 licenses on the part of any persons licensed under this code or any initiative act, or the
11 activities authorized to be performed pursuant to Article 4.5 (commencing with Section
12 2655) or Chapter 7.7 (commencing with Section 3500).

13 A physical therapist licensed pursuant to this chapter may utilized the
14 services of one aide engaged in patient-related tasks to assist the physical therapist in his
15 or her practice of physical therapy. "Patient-related task" means a physical therapy
16 service rendered directly to the patient by an aide, excluding non-patient-related tasks.
17 "Non-patient-related task" means a task related to observation of the patient, transport of
18 the patient, physical support only during gait or transfer training, housekeeping duties,
19 clerical duties, and similar functions. The aide shall at all times be under the orders,
20 direction, and immediate supervision of the physical therapist. Nothing in this section
21 shall authorize an aide to independently perform physical therapy or any physical therapy
22 procedure. The board shall adopt regulations that set forth the standards and
23 requirements for the orders, direction, and immediate supervision of an aide by a physical
24 therapist. The physical therapist shall provide continuous and immediate supervision of
25 the aide. The physical therapist shall be in the same facility as, and in proximity to, the
26 location where the aide is performing patient-related tasks, and shall be readily available
27 at all times to provide advice or instruction to the aide. When patient-related tasks are
28 provided to a patient by an aide, the supervising physical therapist shall, at some point

1 during the treatment day, provide direct service to the patient as treatment for the patient's
2 condition, or to further evaluate and monitor the patient's progress, and shall
3 correspondingly document the patient's record.

4 The administration of massage, external baths, or normal exercise not a
5 part of a physical therapy treatment shall not be prohibited by this section.”

6 6. Section 2660 of the Code states:

7 “The board may, after the conduct of appropriate proceedings under the
8 Administrative Procedure Act, suspend for not more than 12 months, or revoke, or
9 impose probationary conditions upon any license, certificate, or approval issued under
10 this chapter for unprofessional conduct that includes, but is not limited to, one or any
11 combination of the following causes:

12 . . .

13 “(d) Conviction of a crime which substantially relates to the
14 qualifications, functions, or duties of a physical therapist or physical therapy assistant.
15 The record of conviction or a certified copy thereof shall be conclusive evidence of that
16 conviction.

17 . . .

18 “(i) Conviction of a violation of any of the provisions of this chapter or of
19 the State Medical Practice Act, or violating, or attempting to violate, directly or
20 indirectly, or assisting in or abetting the violating of, or conspiring to violate any
21 provision or term of this chapter or of the State Medical Practice Act.

22 “(j) The aiding or abetting of any person to violate this chapter or any
23 regulations duly adopted under this chapter.

24 “(k) The aiding or abetting of any person to engage in the unlawful
25 practice of physical therapy.”

26 7. Section 2620.7 of the Code states:

27 “(a) A physical therapist shall document his or her evaluation, goals,
28 treatment plan, and summary of treatment in the patient record.

1 “(b) A physical therapist shall document the care actually provided to a
2 patient in the patient record.

3 “(c) A physical therapist shall sign the patient record legibly.

4 “(d) Patient records shall be maintained for a period of no less than seven
5 years following the discharge of the patient, except that the records of unemancipated
6 minors shall be maintained at least one year after the minor has reached the age of 18
7 years, and not in any case less than seven years.”

8 8. Section 2661 of the Code states:

9 “A plea or verdict of guilty or a conviction following a plea of nolo
10 contendere made to a charge of a felony or of any offense which substantially relates to
11 the qualifications, functions, or duties of a physical therapist is deemed to be a conviction
12 within the meaning of this article. The board may order the license suspended or
13 revoked, or may decline to issue a license, when the time for appeal has elapsed, or the
14 judgment of conviction has been affirmed on appeal or when an order granting probation
15 is made suspending the imposition of sentence, irrespective of a subsequent order under
16 Section 1203.4 of the Penal Code allowing that person to withdraw his or her plea of
17 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing
18 the accusation, information, or indictment.”

19 9. California Code of Regulations, Title 16, section 1399.20, states:

20 “For the purposes of denial, suspension or revocation of a license,
21 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall
22 be considered to be substantially related to the qualifications, functions or duties of a
23 person holding a license under the Physical Therapy Practice Act if to a substantial degree
24 it evidences present or potential unfitness of a person to perform the functions authorized
25 by the license or approval in a manner consistent with the public health, safety or welfare.
26 Such crimes or acts shall include but not be limited to the following:

27 “(a) Violating or attempting to violate, directly or indirectly, or assisting in
28 or abetting the violation of, or conspiring to violate any provision or term of the Physical

1 Therapy Practice Act. . . .”

2 10. Section 2655 of the Code states:

3 As used in this article:

4 “(a) "Physical therapist" means a physical therapist licensed by the board.

5 “(b) "Physical therapist assistant" means a person who meets the
6 qualifications stated in Section 2655.3 and who is approved by the board to assist in the
7 provision of physical therapy under the supervision of a physical therapist who shall be
8 responsible for the extent, kind, and quality of the services provided by the physical
9 therapist assistant.

10 “(c) "Physical therapist assistant" and "physical therapy assistant" shall be
11 deemed identical and interchangeable.”

12 11. Section 2655.7 of the Code states:

13 “Notwithstanding Section 2630, a physical therapist assistant may assist in
14 the provision of physical therapy service provided the assistance is rendered under the
15 supervision of a physical therapist licensed by the board.”

16 12. California Code of Regulations, Title 16, section 1398.44, states:

17 “A licensed physical therapist shall at all times be responsible for all
18 physical therapy services provided by the physical therapist assistant. The supervising
19 physical therapist has continuing responsibility to follow the progress of each patient,
20 provide direct care to the patient and to assure that the physical therapist assistant does
21 not function autonomously. Adequate supervision shall include all of the following:

22 “(a) The supervising physical therapist shall be readily available in person
23 or by telecommunication to the physical therapist assistant at all times while the physical
24 therapist assistant is treating patients. The supervising physical therapist shall provide
25 periodic on site supervision and observation of the assigned patient care rendered by the
26 physical therapist assistant.

27 “(b) The supervising physical therapist shall initially evaluate each patient
28 and document in the patient record, along with his or her signature, the evaluation and

1 when the patient is to be reevaluated.

2 “(c) The supervising physical therapist shall formulate and document in
3 each patient's record, along with his or her signature, the treatment program goals and
4 plan based upon the evaluation and any other information available to the supervising
5 physical therapist. This information shall be communicated verbally, or in writing by the
6 supervising physical therapist to the physical therapist assistant prior to initiation of
7 treatment by the physical therapist assistant. The supervising physical therapist shall
8 determine which elements of the treatment plan may be assigned to the physical therapist
9 assistant. Assignment of these responsibilities must be commensurate with the
10 qualifications, including experience, education and training, of the physical therapist
11 assistant.

12 “(d) The supervising physical therapist shall reevaluate the patient as
13 previously determined, or more often if necessary, and modify the treatment, goals and
14 plan as needed. The reevaluation shall include treatment to the patient by the supervising
15 physical therapist. The reevaluation shall be documented and signed by the supervising
16 physical therapist in the patient's record and shall reflect the patient's progress toward the
17 treatment goals and when the next reevaluation shall be performed.

18 “(e) The physical therapist assistant shall document each treatment in the
19 patient record, along with his or her signature. The physical therapist assistant shall
20 document in the patient record and notify the supervising physical therapist of any change
21 in the patient's condition not consistent with planned progress or treatment goals. The
22 change in condition necessitates a reevaluation by a supervising physical therapist before
23 further treatment by the physical therapist assistant.

24 “(f) Within seven (7) days of the care being provided by the physical
25 therapist assistant, the supervising physical therapist shall review, cosign and date all
26 documentation by the physical therapist assistant or conduct a weekly case conference
27 and document it in the patient record. Cosigning by the supervising physical therapist
28 indicates that the supervising physical therapist has read the documentation, and unless

1 the supervising physical therapist indicates otherwise, he or she is in agreement with the
2 contents of the documentation.

3 “(g) There shall be a regularly scheduled and documented case conference
4 between the supervising physical therapist and physical therapist assistant regarding the
5 patient. The frequency of the conferences is to be determined by the supervising physical
6 therapist based on the needs of the patient, the supervisory needs of the physical therapist
7 assistant and shall be at least every thirty calendar days.

8 “(h) The supervising physical therapist shall establish a discharge plan. At
9 the time of discharge, or within 7 (seven) days thereafter, a supervising physical therapist
10 shall document in the patient's record, along with his or her signature, the patient's
11 response to treatment in the form of a reevaluation or discharge summary.”

12 13. California Code of Regulations, Title 16, section 1399, states:

13 “A physical therapy aide is an unlicensed person who assists a physical
14 therapist and may be utilized by a physical therapist in his or her practice by performing
15 nonpatient related tasks, or by performing patient related tasks.

16 “(a) As used in these regulations:

17 (1) A “patient related task” means a physical therapy service rendered directly to
18 the patient by an aide, excluding nonpatient related tasks as defined below.

19 (2) A “nonpatient related task” means a task related to observation of the patient,
20 transport of patients, physical support only during gait or transfer training, housekeeping
21 duties, clerical duties and similar functions.

22 “(b) “Under the orders, direction and immediate supervision” means:

23 (1) Prior to the initiation of care, the physical therapist shall evaluate every patient
24 prior to the performance of any patient related tasks by the aide. The evaluation shall be
25 documented in the patient's record.

26 (2) The physical therapist shall formulate and record in the patient's record a
27 treatment program based upon the evaluation and any other information available to the
28 physical therapist, and shall determine those patient related tasks which may be assigned

1 to an aide. The patient's record shall reflect those patient related tasks that were rendered
2 by the aide, including the signature of the aide who performed those tasks.

3 (3) The physical therapist shall assign only those patient related tasks that can be
4 safely and effectively performed by the aide. The supervising physical therapist shall be
5 responsible at all times for the conduct of the aide while he or she is on duty.

6 (4) The physical therapist shall provide continuous and immediate supervision of
7 the aide. The physical therapist shall be in the same facility as and in immediate
8 proximity to the location where the aide is performing patient related tasks, and shall be
9 readily available at all times to provide advice or instruction to the aide. When patient
10 related tasks are provided a patient by an aide the supervising physical therapist shall at
11 some point during the treatment day provide direct service to the patient as treatment for
12 the patient's condition or to further evaluate and monitor the patient's progress, and so
13 document in the patient's record.

14 (5) The physical therapist shall perform periodic re-evaluation of the patient as
15 necessary and make adjustments in the patient's treatment program. The re-evaluation
16 shall be documented in the patient's record.

17 (6) The supervising physical therapist shall countersign with their first initial and
18 last name, and date all entries in the patient's record, on the same day as patient related
19 tasks were provided by the aide.”

20 14. Section 2661.5 of the Code states:

21 “(a) In any order issued in resolution of a disciplinary proceeding before
22 the board, the board may request the administrative law judge to direct any licensee found
23 guilty of unprofessional conduct to pay to the board a sum not to exceed the actual and
24 reasonable costs of the investigation and prosecution of the case.

25 “(b) The costs to be assessed shall be fixed by the administrative law
26 judge and shall not in any event be increased by the board. When the board does not
27 adopt a proposed decision and remands the case to an administrative law judge, the
28 administrative law judge shall not increase the amount of the assessed costs specified in

1 the proposed decision.

2 “(c) When the payment directed in an order for payment of costs is not
3 made by the licensee, the board may enforce the order of payment by bringing an action
4 in any appropriate court. This right of enforcement shall be in addition to any other rights
5 the board may have as to any licensee directed to pay costs.

6 “(d) In any judicial action for the recovery of costs, proof of the board's
7 decision shall be conclusive proof of the validity of the order of payment and the terms
8 for payment.

9 “(e) (1) Except as provided in paragraph (2), the board shall not renew or
10 reinstate the license or approval of any person who has failed to pay all of the costs
11 ordered under this section.

12 (2) Notwithstanding paragraph (1), the board may, in its
13 discretion, conditionally renew or reinstate for a maximum of one year the license or
14 approval of any person who demonstrates financial hardship and who enters into a formal
15 agreement with the board to reimburse the board within that one year period for those
16 unpaid costs.

17 “(f) All costs recovered under this section shall be deposited in the
18 Physical Therapy Fund as a reimbursement in either the fiscal year in which the costs are
19 actually recovered or the previous fiscal year, as the board may direct.”

20 FIRST CAUSE FOR DISCIPLINE

21 (Conviction of a Crime)

22 15. Complainant hereby incorporates by reference Paragraphs 1 through 14 as
23 if each were fully set forth herein.

24 16. Respondent is subject to disciplinary action under Code sections 2660,
25 subdivision (d), and 2661, and California Code of Regulations, Title 16, section 1399.20,
26 subdivision (a), in that he was convicted of a crime substantially related to the qualifications,
27 functions, or duties of a physical therapist. The circumstances are as follows:

28 A. On or about January 23, 2007, in Kern County Superior Court Complaint

1 No. MM057112A, Respondent was charged with utilizing the services of one or more
2 aides who engaged in patient related tasks without the orders, direction and immediate
3 supervision of a physical therapist, in violation of Business and Professions Code section
4 2630, a misdemeanor.

5 B. On or about February 28, 2007, Respondent was convicted upon his plea
6 of nolo contendere to utilizing the services of one or more aides without the immediate
7 supervision of a physical therapist. Respondent was placed on probation for three years.
8 He was ordered to pay a fine of \$9,180.00, a court security fee of \$20.00 and a restitution
9 fine of \$100.00.

10 SECOND CAUSE FOR DISCIPLINE

11 (Aiding and Abetting the Unlicensed Practice of Physical Therapy)

12 17. Complainant hereby incorporates by reference Paragraphs 1 through 16 as
13 if each were fully set forth herein.

14 18. Respondent is subject to disciplinary action under Business and
15 Professions Code sections 2630 and 2660, subdivisions (i), (j) and (k), and California Code of
16 Regulations, Title 16, sections 1398.44, and 1399, in that he aided and abetted the unlicensed
17 practice of physical therapy.

18 19. Respondent is employed as the physical therapist at West Point Physical
19 Therapy, which is owned by his mother, Grace Marzocchetti, a licensed physical therapist. West
20 Point Physical Therapy has two locations, one in California City and one in Palmdale. The staff
21 at the California City location consists of Bailes, a physical therapy assistant, and Polycen, a
22 physical therapy aide. The California City location is open on Mondays, Wednesdays and
23 Fridays.

24 20 On or about April 19, 2006, the Board's investigator and the Board's
25 expert interviewed respondent at the Palmdale office location. Respondent stated that he is
26 physically present at the California City office a half-day on Mondays where he performs initial
27 evaluations, administers some treatments, co-signs charts, and supervises the physical therapy
28 assistant Bailes and the physical therapy aide Polycen. He stated that Bailes provides most of the

1 physical therapy treatments and performs tests and measurements for reevaluations, and prepares
2 discharge evaluations. Respondent's supervision of Bailes is done on his half-day Monday visits
3 and is also done telephonically, but is not documented. Respondent also acknowledged that the
4 physical therapy aide Polycen administers to patients without his direct supervision, and that
5 Bailes supervised Polycen.

6 21. On or about April 19, 2006, the Board's investigator and the Board's
7 expert interviewed Bailes at the California City location of West Point Physical Therapy. Bailes
8 stated that respondent came to the California City location on Mondays to conduct initial
9 evaluations of new patients, review and co-sign patient charts, and to discuss Bailes' ongoing
10 treatment of patients. Bailes stated that he performed all treatments after the initial evaluations,
11 including modalities, manual therapy and therapeutic exercises. He performed patient discharge
12 evaluations. He reviewed new prescriptions and changed the patients' treatment plans.
13 Respondent supervised him telephonically, with no formal case conferences. In one instance,
14 Bailes received a new prescription from the physician of patient B.H. Bailes changed the
15 treatment of the patient, without formal communication with respondent. Bailes also stated that
16 at times the physical therapy aide Polycen assisted him by administering ultrasound, providing
17 massages, and applying heat packs. Bailes stated that he supervised Polycen.

18 22. On or about April 19, 2006, the Board's investigator and the Board's
19 expert interviewed the physical therapy aide Polycen at the California City location of West Point
20 Physical Therapy. Polycen stated her primary supervisor was Bailes. She admitted that she
21 applied heat packs, and performed ultrasound and massage, without instruction or
22 communication. She also documented evaluations in the patients' charts.

23 23. Respondent failed to appropriately supervise support personnel including
24 the physical therapy assistant Bailes, and the physical therapy aide Polycen, who provided
25 treatments to patients.

1 Patient D.L.¹

2 A. On or about August 8, 2005, respondent performed an initial evaluation of
3 Patient D.L. at the California City location of West Point Physical Therapy. D.L.
4 received about six treatments from the physical therapy assistant Bailes from August 10
5 through September 7, 2005. Respondent did not cosign the treatment notes dated August
6 10, 15, 17, and September 7, 2005. There was no indication of a case conference or any
7 communication between respondent and the physical therapy assistant regarding the
8 patient. There was no indication that respondent reevaluated the patient. The physical
9 therapy assistant prepared the discharge summary dated September 7, 2005, when it was
10 the responsibility of the respondent to prepare the discharge summary.

11 Patient L.H.

12 B. On or about August 8, 2005, respondent performed an initial evaluation of
13 Patient L.H. at the California City location of West Point Physical Therapy. L.H.
14 received about eight treatments from August 10 through August 31, 2005, provided by
15 the physical therapy assistant and the physical therapy aide. The physical therapy aide did
16 not sign her notes on August 10, 12, and 17, 2005. There was no documentation in the
17 record that respondent directly and immediately supervised the physical therapy aide or
18 provided direct service to patient L.H. on August 10, 12, 15, 17, 22, 24, and 31, 2005, the
19 dates the aide provided treatment. There was no indication that respondent ever
20 reevaluated the patient or had any communication with the physical therapy assistant.
21 The physical therapy assistant prepared the discharge summary dated August 31, 2005,
22 when it was the responsibility of respondent to prepare the discharge summary.

23 Patient J.S.

24 C. On or about September 19, 2005, respondent performed an initial
25 evaluation of Patient J.S. at the California City location of West Point Physical Therapy.

26
27 1. For privacy, the patients in the Accusation will be identified by their initials. The full
28 names will be disclosed to Respondent upon timely request for discovery pursuant to
Government Code section 11507.6.

1 J.S. received about nine treatments from September 21 through October 31, 2005,
2 provided by the physical therapy assistant and the physical therapy aide. There was no
3 documentation in the record that respondent directly and immediately supervised the
4 physical therapy aide or provided direct service to patient J.S. on September 26, 28, and
5 on October 3, 10, and 31, the dates the aide provided treatment. Respondent did not
6 cosign the treatment notes dated October 24, 28, and 31, 2005. There was no indication
7 of a case conference or any communication between respondent and the physical therapy
8 assistant regarding the patient. There was no indication that respondent reevaluated the
9 patient. The physical therapy assistant prepared the discharge summary dated
10 November 11, 2005, when it was the responsibility of respondent to prepare the discharge
11 summary.

12 Patient M.M.

13 D. On or about September 12, 2005, respondent performed an initial
14 evaluation of Patient M.M. at the California City location of West Point Physical
15 Therapy. M.M. received about fourteen treatments from September 14 through
16 November 4, 2005 from respondent, the physical therapy assistant and the physical
17 therapy aide. The physical therapy aide did not sign her notes on September 19, 21, and
18 26, 2005. There was no documentation in the record that respondent directly and
19 immediately supervised the physical therapy aide or provided direct service to patient
20 M.M. on September 14, 16, 26, 28, 30, and on October 3, 10, 17, and 21, 2005, the dates
21 the aide provided treatment. Respondent did not cosign the treatment notes dated
22 October 26 and November 4, 2005, which were prepared by the physical therapy
23 assistant. There was no indication of case conferences or any communication between
24 respondent and the physical therapy assistant regarding the patient.

25 Patient E.T.

26 E. On or about March 6, 2006, respondent performed an initial evaluation of
27 Patient E.T. at the California City location of West Point Physical Therapy. E.T. received
28 about seven treatments from March 10 through 24, 2006, provided by the physical

1 therapy assistant and the physical therapy aide. There was no documentation in the
2 record that respondent directly and immediately supervised the physical therapy aide or
3 provided direct service to patient E.T. on March 15, 16, 20, 22, and 24, 2006, the dates
4 the physical therapy aide treated the patient. Respondent did not cosign the physical
5 therapy notes dated March 15, 17, 22, and 24, 2006. There was no indication that
6 respondent reevaluated the patient or had any communication with the physical therapy
7 assistant. The physical therapy assistant prepared the discharge summary dated
8 March 24, 2006, when it was the responsibility of respondent to prepare the discharge
9 summary.

10 Patient L.Y.

11 F. On or about March 13, 2006, respondent performed an initial evaluation of
12 Patient L.Y. at the California City location of West Point Physical Therapy. L.Y.
13 received about ten treatments from March 15 through April 14, 2006, provided by the
14 physical therapy assistant and the physical therapy aide. There was no documentation in
15 the record that respondent directly and immediately supervised the physical therapy aide
16 or provided direct service to patient L.Y. on March 17, 22, 29, and April 3, 2006, the
17 dates the physical therapy aide treated the patient. Respondent did not cosign the physical
18 therapy notes dated March 15, 17, 22, 27, 29, and April 3 and 12, 2006. There was no
19 indication that respondent reevaluated the patient. On March 30, 2006, the patient's
20 physician wrote a new physical therapy prescription indicating the patient's neck as a
21 treatment area. On April 5, 2006, the treatment notes prepared by the physical therapy
22 assistant made reference to the patient's neck area. There was no indication in the record
23 of any communication between respondent and the physical therapy assistant regarding
24 the change in prescription, and no indication that respondent reevaluated the patient
25 before further treatment. There was no indication of a case conference which was
26 required every thirty days between respondent and the physical therapy assistant regarding
27 the patient.

28 ///

Patient C.F.

G. On or about April 3, 2006, respondent performed the an initial evaluation of Patient C.F. at the California City location of West Point Physical Therapy. C.F. received treatments on April 5, 7, 10 and 14, 2006, provided by the physical therapy assistant and the physical therapy aide. The physical therapy assistant provided treatments on April 5, 7, 10 and 14, 2006, and the physical therapy aide provided treatment on April 14, 2006. There was no documentation in the record that respondent directly and immediately supervised the physical therapy aide or provided direct service to patient C.F. on April 14, 2006. Respondent did not cosign any of the physical therapy notes. There was no indication that respondent reevaluated the patient or had any communication with the physical therapy assistant.

Patient R.W.

H. On or about April 3, 2006, respondent performed an initial evaluation of Patient R.W. at the California City location of West Point Physical Therapy. R.W. received about six treatments from April 5 through 17, 2006, provided by the physical therapy assistant and the physical therapy aide. There was no documentation in the record that respondent directly and immediately supervised the physical therapy aide or provided direct service to patient R.W. on April 10, 12, 14, and 17, 2006, when the physical therapy aide treated the patient. The physical therapy aide did not sign her notes on April 17, 2006. Respondent did not cosign any of the physical therapy notes. There was no indication that respondent reevaluated the patient, or had any communication with the physical therapy assistant.

Patient W.C.

I. On or about April 3, 2006, respondent performed an initial evaluation of Patient W.C. at the California City location of West Point Physical Therapy. W.C. received about five treatments from April 5 through 17, 2006, provided by the physical therapy assistant and the physical therapy aide. There was no documentation in the record that respondent directly and immediately supervised the physical therapy aide or

1 provided direct service to patient W.C. on April 12, and 17, 2006, the dates the physical
2 therapy aide treated the patient. Respondent did not cosign the physical therapy notes
3 dated April 5, 10, and 17, 2006. There was no indication that respondent reevaluated the
4 patient, or had any communication with the physical therapy assistant.

5 Patient B.H.

6 J. On or about April 3, 2006, respondent performed an initial evaluation of
7 Patient B.H. at the California City location of West Point Physical Therapy. B.H.
8 received about five treatments from April 5 through 17, 2006, provided by the physical
9 therapy assistant and the physical therapy aide. There was no documentation in the
10 record that respondent directly and immediately supervised the physical therapy aide or
11 provided direct service to patient B.H. on April 10, 14, and 17, 2006, the dates the
12 physical therapy aide treated the patient. Respondent did not cosign the any of the
13 physical therapy notes. On April 12, 2006, the patient's physician wrote a new physical
14 therapy prescription, "Commence from It shoulder." The treatment notes written by the
15 physical therapy assistant on April 14, 2006, refer to the physician's prescription. There
16 was no indication in the record that respondent communicated with the physical therapy
17 assistant regarding the new prescription or that respondent reevaluated the patient before
18 further treatment.

19 THIRD CAUSE FOR DISCIPLINE

20 (Failure to Properly Document Patient Records)

21 24. Complainant hereby incorporates by reference Paragraphs 1 through 23 as
22 if each were fully set forth herein.

23 25. Respondent is subject to disciplinary action under Business and
24 Professions Code sections 2620.7 and 2630 and California Code of Regulations, Title 16,
25 sections 1398.44 and 1399, in that he failed to properly document patient records. The facts and
26 circumstances of the failure to properly document patient records are set forth above in Paragraph
27 23, subparagraphs A through J of this Accusation. The daily notes lacked documentation
28 regarding patient progress; objective testing; and professional assessment. Respondent also

1 failed to document patient records when aides provided treatment and that he, at some point in
2 time, also provided treatment to the patients.

3 FOURTH CAUSE FOR DISCIPLINE

4 (Unprofessional Conduct)

5 26. Complainant hereby incorporates by reference Paragraphs 1 through 23 as
6 if each were fully set forth herein.

7 27. Respondent is subject to disciplinary action under section 2660 of the
8 Code in that he engaged in unprofessional conduct. The facts and circumstances of the
9 unprofessional conduct are set forth above in Paragraphs 16 through 23 of this Accusation.

10 PRAYER

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein
12 alleged, and that following the hearing, the Physical Therapy Board of California issue a
13 decision:

14 1. Revoking or suspending Physical Therapist Number PT 26241, issued to
15 Ezequiel A. Marzocchetti;

16 2. Ordering him to pay the Physical Therapy Board of California the
17 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
18 Professions Code section 2661.5; and

19 3. Taking such other and further action as deemed necessary and proper.

20 DATED: July 6, 2007

21
22 Original Signed By:
23 STEVEN K. HARTZELL
24 Executive Officer
Physical Therapy Board of California
Department of Consumer Affairs
State of California
Complainant

25 LA2006503396
26 Marzocchetti Accusation.wpd